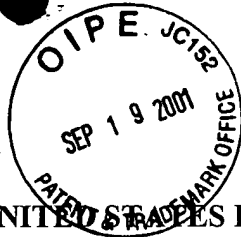


#5

Docket No.: 44319-051



IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

RECEIVED
PATENT
SEP 24 2001
TC 3100 MAIL ROOM

In re Application of

Akio YAMASHITA

Serial No.: 09/536,762

Group Art Unit: 3736

Filed: March 28, 2000

Examiner: Kremer, M.

For: TRANSCUTANEOUS BILIRUBIN CONCENTRATION MEASURING APPARATUS
AND A MEASUREMENT DATA CHECKING PLATE FOR USE WITH THE SAME

RESPONSE TO RESTRICTION REQUIREMENT SENT 2 1 2001

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TC 1700

Commissioner for Patents
Washington, DC 20231

Sir:

Noting the Office Action of August 17, 2001 wherein restriction has been required, Applicant hereby elects Group I (claims 1-17) for prosecution in the above-identified application. This election is made with traverse.

The Examiner asserts that the claims of Groups I and II are related as subcombinations disclosed as usable together in a single combination and the subcombinations are distinct from each other if they are shown to be separately usable. Consequently, the Examiner maintains that claims of Group II have separate utility such as a calibration element from other concentration measuring devices.

However, Applicant submits that there would not be a serious burden upon the Examiner to examine the subcombination of Group II since the measurement data checking plate is limited to be used with a bilirubin concentration measuring apparatus. Therefore, it is believed that no real reason exists to restrict claims 18 and 19 from being examined together with claims 1-17.

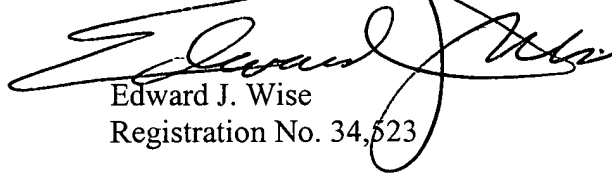
Serial No. 08/438,730

Consequently, withdrawal of the restriction requirement and examination of this application, encompassing claims 1-19, is respectfully solicited.

To the extent necessary, a petition for an extension of time under 37 C.F.R. 1.136 is hereby made. Please charge any shortage in fees due in connection with the filing of this paper, including extension of time fees, to Deposit Account 500417 and please credit any excess fees to such deposit account.

Respectfully submitted,

MCDERMOTT, WILL & EMERY



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